

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff(s)

v.

RAMON DE JESUS VIERA,

Defendant(s)

CRIMINAL NO. 07-285 (JAG)

ORDER ADOPTING REPORT AND RECOMMENDATIONS

On October 4, 2007, Ramon de Jesus Viera ("defendant") filed a Motion to Suppress evidence seized from his vehicle at the Point of Entry in Mayaguez, Puerto Rico, when defendant presented himself for inspection upon arrival from the Dominican Republic. (Docket No. 27, 29). During a secondary inspection, the inspectors drilled into the flat bed of defendant's vehicle and found a hidden compartment with cocaine and heroin. Defendant argues that the search was not a routine border search and that an evidentiary hearing is necessary to determine whether the inspector had the requisite reasonable suspicion to conduct a non-routine search of his vehicle. The Court referred the Motion to Suppress to Magistrate Judge Justo Arenas, who issued a Report and Recommendation on October 19, 2007 and an Amended Report and Recommendation on October 26, 2007 (Docket Nos. 35, 37). The Magistrate Judge recommended that the Motion to Suppress be denied without an evidentiary hearing because the

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destructive search of defendant's vehicle was within the border exception to the warrant requirement, no reasonable suspicion was necessary to conduct it, and the defendant had been fully heard on the issue. Defendant filed a Motion for Reconsideration, stating that the Magistrate Judge should have considered the case of United States v. Flores-Montano, 541 U.S. 149 (2004), among others. (Docket No. 38). The Magistrate Judge then issued another Report and Recommendation addressing defendant's Motion for Reconsideration. (Docket No. 39). In it, the Magistrate Judge again recommended that the Court deny defendant's Motion to Suppress. Defendant did not file objections to this last Report and Recommendation within the time frame provided by the Federal Rules of Criminal Procedure and this Court's Local Rules. See Fed.R.Crim.P. 11; 28 U.S.C. § 636(b)(1)(B); D.P.R. Local Crim. R. 147(b).

After reviewing the record, the Court agrees with the arguments and legal conclusions in the Report and Recommendations issued by Magistrate Judge Arenas. No evidentiary hearing is necessary in this case since there are no material facts in doubt or dispute and defendant has not made a sufficient showing that the evidence seized was the product of a search that does not fall under the border search exception to the warrant requirement. The search conducted in this case falls within the routine search permitted under the border exception to the warrant requirement of the Fourth Amendment. As such, no reasonable suspicion was necessary for the search to be

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conducted. (See e.g., United States v. Flores-Montano, 541 U.S. 149 (2004); United States v. Chaudry, 424 F.3d 1051 (9th Cir. 2005)). Accordingly, the Court hereby ADOPTS the Magistrate Judge's Report and Recommendations (Docket Nos. 37, 39) in their entirety and accordingly, DENIES defendant's Motion to Suppress (Docket No. 27).

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 4rd day of February, 2008.

S/Jay A. Garcia-Gregory
JAY A. GARCIA-GREGORY
United States District Judge